

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

PLM-II

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FILE: B-194255

DATE: April 3, 1979

MATTER OF: Karl D. Simecka - [Relocation expenses of (per DLG)
Manpower shortage appointee]

DIGEST: Manpower shortage appointee in Department of the Air Force is entitled only to travel expenses (including per diem) for himself; transportation expenses of his immediate family; and shipment of his household goods to his official station under 5 U.S.C. 5723 and implementing regulations notwithstanding an erroneous administrative authorization of other expenses since the Government cannot be bound beyond actual authority conferred upon its agents by statute and regulation.

We have been asked to reconsider our Claims Division disallowance of December 6, 1978, of Karl D. Simecka's claim for certain relocation allowances incident to his selection for a manpower shortage position in the Department of the Air Force in 1977.

Mr. Simecka who was living in Silver Lake, Kansas, was given an initial appointment to a position in a manpower shortage category at Nellis Air Force Base, Nevada, his first duty station. He was issued a travel order on October 14, 1977, which was amended July 14, 1978, which authorized transportation, per diem, and movement of his household goods. He also was erroneously authorized temporary quarters subsistence expense, miscellaneous expense allowance, real estate expenses, and per diem for his dependents. He claims entitlement for these later items in the amount of \$5,767.23.

It is urged that since these additional expenses were authorized in writing and that relying on such authorization Mr. Simecka acted in good faith according to the travel authorization, the Government has a binding obligation to pay for the additional expenses incurred.

The authority to allow Government employees reimbursement for residence sale and purchase expenses, subsistence while occupying temporary quarters, and per diem for family on a permanent change of station is contained in 5 U.S.C. 5724a (1976). Section 5724a authorizes reimbursement for those expenses only for an employee transferred in the interest of


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the Government from one official station or agency to another for permanent duty or a former employee separated by reason of reduction in force or transfer of function who, within 1 year after separation is reemployed by a nontemporary appointment at a different geographical location.

Appointees to manpower shortage positions are entitled to travel and transportation expenses from their places of residence at time of selection or assignment to their duty station in accordance with 5 U.S.C. 5723 (1976) which provides for reimbursement of the travel expenses of the appointee and payment of the transportation expenses of his immediate family and of his household goods and personal effects to the extent authorized in 5 U.S.C. 5724 (1976). No other expenses are authorized in section 5723. Implementing regulations for shortage category appointees are set forth in Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) in para. 2-1.5f. Subpara. (4) of para. 2-1.5f expressly prohibits the reimbursement of resident sale and purchase expenses, subsistence while occupying temporary quarters, miscellaneous expense allowance and per diem for family. Under the applicable statutes the amounts claimed by Mr. Simecka are not for payment. The applicable regulations clearly state the statutory limitations. See 54 Comp. Gen. 747 (1975); and B-181080, May 21, 1974.

It is unfortunate that Mr. Simecka as a shortage category employee was erroneously authorized allowances which are statutorily conferred only upon transferred employees. It is a well-settled rule of law, however, that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulations, and this is so even though the agent may have been unaware of the limitations on his authority. See German Bank v. United States, 148 U.S. 573, 579 (1893); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380, 384 (1947); 53 Comp. Gen. 11 (1973); and B-177565, February 9, 1973.

In view of the above, the settlement of our Claims Division of December 6, 1978, disallowing Mr. Simecka's claim is sustained.


Deputy Comptroller General
of the United States